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**DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME
FOR
BRIGHTON PARK**

JERRY'S HOMES, INC. referred to herein as "Developer, hereby executes this instrument of Declaration of Submission of Property to a Horizontal Property Regime ("Declaration") to be known as **BRIGHTON PARK** (hereafter referred to as a "regime") all pursuant to Chapter 499B of the Code of Iowa, entitled "Horizontal Property Act" the same to take effect when filed for record in the office of the Dallas County Recorder. This and all references in this Declaration and exhibits hereto to the Code of Iowa refer to the 2002 Code of Iowa.

RECITALS

- A. The Developer is the owner of the land and proposed improvements to be known as Brighton Park in the City of Waukee, Dallas County, Iowa. The legal description of such condominium regime property is as follows:
- Lot 54, Park View Crossing , an Official Plat in the City of Waukee, Dallas County, Iowa, except the East 15.00 feet thereof.
- B. The units in Lot 54 which are hereby subjected to the Horizontal Property Regime consist of seven one-story ranch styled wood frame buildings with brick fronts comprising 22 units, each unit with an attached garage. Developer, by this Declaration, intends to make Brighton Park a condominium regime as defined in Chapter 499B, Code of Iowa.
- C. Developer's purpose, by filing this Declaration, is to submit and convey the land described above and the buildings to be constructed thereon, together with all appurtenances thereto, to the condominium form of ownership and use pursuant to the provisions of the aforesaid Horizontal Property Act, and to impose upon such property mutually beneficial restrictions under a general plan of improvement for the benefit of all condominiums and the owners thereof.

NOW, THEREFORE, Developer does hereby declare that all of the property described above is held and shall be held subject to the following covenants, conditions, restrictions, uses, limitations, and obligations, all of which are declared and agreed to be in the furtherance of a plan

for the improvement of the property and the division thereof into condominiums and shall run with the land and shall be a burden and a benefit to Developer, its successors and assigns, and any person owning an interest in the real property, improvements and appurtenances thereto, his or her, as the case may be, grantees, successors, heirs, executors, administrators, devisees, and assigns.

ARTICLE I DEFINITIONS AND GENERAL

1. Association. The term "Association" shall mean the Brighton Park Owner's Association and its successors, pursuant to the Second Amendment to Declaration of Covenants, Conditions and Restrictions for Park View Crossing filed of record in the office of the Dallas County Recorder at Book 2002 Page 1054 ("Covenants") as amended by the Third Amendment to Declaration of Covenants, Conditions and Restrictions for Park View Crossing filed contemporaneously herewith ("Amended Covenants") (jointly "Brighton Park Covenants") and shall, for purposes of this Declaration, be the "Council of Co-Owners" as defined in Section 499B.2(3) Code of Iowa.
2. Building. The term "building" or "building(s)" is defined at Article I, Section 3 of the Brighton Park Covenants.
3. Common Elements or Areas. The term "common elements" or "common areas" means all general common elements and limited common elements as defined herein and in the Brighton Park Covenants.
4. Condominium. The term "condominium" when used as a noun means a unit and appurtenances thereto.
5. Condominium Documents. The term "condominium documents" means this Declaration, all exhibits attached hereto including the Articles of Incorporation and Bylaws of the Association, and supplements and amendments thereto and the Brighton Park Covenants.
6. Garage. The term "garage" means a space within a building that abuts a driveway and is appurtenant to a unit, which space and the building in which it is located are intended for, but not limited to the storage of automobiles. Each garage space is a limited common element and appurtenant to a specific unit as provided herein.
7. General Common Elements. The term "general common element" means and is described as all portions of the property not located within any unit except such portions of the property which are defined or reserved as limited common elements, and the term also includes but is not limited to the Land, driveways, outside parking, sidewalks, street lights, landscaping, fences, monument signs or other signs, detention pond, if any, plantings and pertinent equipment and furnishings.

All structural elements of a building, including but not limited to the foundation, slabs, exterior walls, roof and attic, interior load bearing walls, walls dividing units and walls separating units from another common area, floors, ceilings, and other structural elements of the building not reserved to a unit are general common elements.

All sanitary sewer lines (including manholes), water service lines, the storm sewer collection system, including storm sewer lines and any structures or manholes relating thereto, electrical, gas, telephone and other utility or service lines, wiring, ducts, conduits, and piping located outside of any unit or which serve more than one unit are general common elements notwithstanding the same are located in part within a unit and in general all devices and installations existing for common use..

8. Land. The term "land" or "Land" for purposes of this Declaration means Lot 54, Park View Crossing, an Official Plat in the City of Waukee, Dallas County, Iowa except the East 15.00 feet thereof.
9. Owner. The term "owner" means the holder of a real property interest in a unit, except when otherwise defined in the condominium documents, and excluding mortgagees not in possession, lienholders and interests merely collateral in nature.
10. Ownership Units. The term "ownership units" means the ownership units made appurtenant to each unit in Article III hereof for purposes including but not limited to determining each unit's appurtenant share of the common elements, and determining voting and assessment in accordance with the Bylaws of the Association and the Brighton Park Covenants.
11. Property or Project. The term "property" or "project" or the terms "condominium property" or "condominium project" includes all property, real, personal or mixed, all other improvements located thereon, and all easements, rights, appurtenances belonging thereto submitted to the regime other than the personal property of any owner which might otherwise be considered submitted to the regime.
12. Unit. Each unit shall consist of the area between the decorated and finished interior surfaces of its perimeter walls (including windows and sliding glass doors) and including the interior surface of the exterior door(s), and between the lower surface of the ceiling and the upper surface of the lowest floor. A unit shall include and be defined by the above referenced surfaces and shall also include windows, gas appliances, electrical fixtures and plumbing fixtures, including the heating, ventilating and air conditioning equipment and hot water heater within the units, and non-load bearing partitions or walls within such area, except that all lines, wires, ducts and the like within any non-load bearing a partition or wall which serve more than one unit, shall be excluded and shall not constitute a part of the unit. "Unit" (or " unit" or "Living Unit") shall have the same meaning as "apartment" as defined in Section 499B.2(1) Code of Iowa, except as further defined in

this paragraph.

13. Plural and Gender. Whenever the context so permits or requires, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.
14. Successors, Grantees, and Assigns. Any reference to Developer, an owner, the Association, or any person or entity shall include the respective heirs, successors, grantees and assigns thereof.
15. Severability. The invalidity of a covenant, restriction agreement, undertaking or other provision of any condominium document shall not affect the validity of the remaining portions thereof.
16. Incorporation. Exhibits attached hereto and referred to herein are hereby incorporated made a part hereof as if set out in full herein with the same force and effect as other provisions of this document; provided that, wherever specifically provided, modification of certain exhibits shall not be deemed an amendment of this Declaration.
17. Other Definitions. Certain other terms are defined in various places in this Declaration and to the extent not defined herein, the definitions contained the Horizontal Property Act shall control.

ARTICLE II IDENTIFICATION OF LAND, BUILDINGS AND UNITS

1. Location of Land and Improvements. The land, buildings and other improvements on the Land are hereby submitted to the regime. Attached hereto as Exhibit A is the duly certified plat of survey drawn to scale. Exhibit "A" contains and such contents shall govern, for purposes of this Declaration and for purposes of meeting certain requirements of Section 499B.4 and 499B.6 of the Code of Iowa, the following:
 - a) The number identifying each building and unit, the location and number of rooms in each unit and the immediate common area to which each unit has access.
 - b) The full and exact copy of the plans of the buildings which show graphically all particulars of the buildings including, but not limited to, the dimensions, area and location of the common elements affording access to each unit.
2. Driveways. The driveways shown in Exhibit "A" shall be private driveways within the regime and common elements thereof, affording access to the units and common elements from public streets, and an easement over such driveways as is necessary for ingress and egress to such units and common elements shall be appurtenant to each unit.

**ARTICLE III
OWNERSHIP OF UNITS, APPURTENANCES AND EASEMENTS**

1. Exclusive Ownership of Unit. Each owner shall be entitled to exclusive ownership and possession of his unit. An owner shall be deemed to own the windows and glass doors of his unit. An owner shall not be deemed to own the undecorated or unfinished interior surfaces of the perimeter walls, floors, ceilings and exterior doors bounding his unit which are included in limited or general common elements notwithstanding the fact that such elements are within the perimeter of such unit. An owner, however, shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the perimeter walls, floors, ceilings, and exterior doors bounding his unit and also shall have such exclusive rights with respect to general or limited common elements which are within his unit, including specifically the right to penetrate such common elements with nails and other fasteners for hanging customary pictures, mirrors, and similar wall decorations.
2. Appurtenances. There shall pass with the ownership of each unit as a part hereof, whether or not separately described, all appurtenances to such unit (whether such appurtenance is described in this Article or elsewhere in this Declaration or in the Bylaws of the Association), including the limited common elements. No part of the appurtenant interest of any unit may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other disposition of such unit itself or of all units in the regime.
3. Ownership Units. For purposes of this Declaration and the Bylaws of the Association, appurtenant to each unit shall be one ownership unit as listed in Exhibit "B" of this Declaration. The ownership units which are appurtenant to each unit are hereby created by this Declaration and shall be counted for all purposes stated herein and in the other condominium documents irrespective of any actual occupancy or use of the unit to which appurtenant.
4. Undivided Ownership Interest. An undivided interest in the land and other common elements of the regime, regardless of whether such elements are general or limited common elements, shall be appurtenant to each unit. The amount of such undivided interest appurtenant to each unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the number of all units which have been submitted to the regime, all as shown on Exhibit B attached hereto.
5. Use of Limited Common Elements. The exclusive use of limited common elements shall be deemed an appurtenance of the unit or units for which said elements are reserved provided such use and enjoyment shall be limited to the uses permitted by this Declaration and other condominium documents.
6. General Common Elements. Appurtenant to each Unit shall be a right to use and enjoy the general common elements.

7. Membership and Voting Rights. Appurtenant to each Unit shall be membership in the Association and one vote in the affairs of the Association (and of the regime), provided the exercise of such voting and membership rights shall be subject to the applicable provisions of the Articles and Bylaws of the Association, the Brighton Park Covenants and of the other condominium documents. The action of such Association must be deemed the action of the owners or of the Council of Co-owners whenever such action is permitted or required by Chapter 499B of the Code of Iowa; and such action when taken in accordance with the Bylaws of the Association and this Declaration shall be final and conclusive upon all Unit owners.

8. Encroachment Easements. If any portion of the common elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the common elements, or if any of such encroachments shall occur hereafter as a result of shifting or settling of the building or from alteration, repair or improvement to the common elements or as a result of repair or restoration of the common elements or a Unit after damage by fire or other casualty, or as a result of condemnation or of eminent domain proceedings, then in each of such events a valid easement shall exist for such encroachment and for the maintenance thereof so long as the building, common elements and units exist, as long as the physical boundaries of the units after construction, reconstruction, repair, etc, are in substantial accord with the description of those boundaries that appear in this Declaration.

9. Cross Easements. Appurtenant to each Unit shall be easements from each Unit owner to each other Unit owner and to the Association and from the Association to the respective Unit owners as follows:

- a. For ingress and egress through the common areas and for maintenance, repair and replacement as authorized;
- b. Through the units and common elements for maintenance, repair and replacement or reconstruction of common elements, but access to units and limited common elements shall be only during reasonable hours except in case of emergency;
- c. Through the units and common areas for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility or other services to the other units and the common areas.
- d. To the extent necessary, each Unit shall have an easement for structural support over the common elements and over any other Unit in the building, and each Unit and the common elements shall be subject to an easement for structural support in favor of every other Unit in the building and the common elements.

10. Utility Easements. The Association shall have the right to grant utility easements under, through and over the common elements which are reasonably necessary to the ongoing development and operation of the Condominium Project.

11. Owners Access. Each unit owner shall have a perpetual right appurtenant to the owner's ownership interest in the unit for access to and from the owner's unit across and through the common elements.

ARTICLE IV LIMITED COMMON ELEMENTS

1. Definition. The term "limited common elements" shall mean a portion of the common elements set aside and allocated for the restricted use of respective units as is or as may hereafter be designated. At the time of conveyance, each respective document of conveyance shall be deemed to convey the limited common elements to be used exclusively in conjunction with the respective Unit without necessity of naming the same.
2. Reservation. The limited common elements consisting of the balconies or patios which exclusively serve each Unit are reserved as limited common elements for the exclusive use of each respective Unit. Each garage is attached to appurtenant as a limited common element to each unit and is numbered the same as the unit.
3. Balconies or Patios. The cost of maintenance and repair or any balcony or patio shall be assessed against the Unit that such balcony exclusively serves.
4. Exception. Notwithstanding the reservations permitted by this Article, the design and layout of the building and grounds submitted and the integrity and appearance of the regime as a whole are the common interest of all owners and shall remain a part of the general common elements.
5. Right of Association. The reservation of the limited common elements shall not limit any right the Association and its agent may otherwise have to alter such limited common elements or enter upon such limited common elements.

ARTICLE V. DEVELOPER'S RESERVED RIGHTS, POWERS AND OBLIGATIONS

1. Developer's Activities and Unit Ownership. Developer is irrevocably and perpetually empowered, notwithstanding any use restriction or other provision hereof to the contrary, to sell, lease, or rent units not previously sold by the Developer to any person and shall have the right to transact on the condominium property any business relating to construction, sale, lease or rental of such units and any recreational facilities including, but not limited to, the right to maintain models, offices, signs, employees and equipment and materials on the premises, and to use common elements to show such units. A sale and rental office, signs and all items and equipment pertaining to sales or rentals and other facilities furnished by Developer shall not be considered common elements and shall remain their separate property. Developer retains the right to be and remain the owner of

completed but unsold units under the same terms and conditions as other owners including membership in the Association save for the right to sell, rent or lease.

2. Developer's Nonliability for Assessments. The Developer, and the Units which Developer owns, shall not be liable for any assessments made by the Association whether general or special, provided however, at such time as a unit owned by developer is sold, leased, rented or occupied (other than as a model for sales purposes or as a sales office), such unit shall thereafter be liable for assessments in the same fashion as any other owner.
3. Designation of Association Directors. Developer shall be the sole voting member of the Association and/or shall have the right to name all members of the Board of Directors of the Association ("Board of Directors") until the first annual members' meeting of said Association which shall be held no later than the earlier of 120 days after the date by which 75% of the units of the condominium regime as a whole have been conveyed to unit purchasers or the date 5 years after the date the first Unit is conveyed (hereinafter referred to as the "Control Transfer Date"). Thereafter the Board of Directors shall be selected in the manner specified in the Bylaws of this Association.
4. Right to Amend Plans. Developer reserves the right to change the interior design and arrangement of all Units, and to alter the boundaries between Units, so long as Developer owns the units so altered. If Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment to this Declaration. An amendment made pursuant to this paragraph needs to be signed and acknowledged only by the Developer, its agents or assigns and need not be approved by the Association, Unit owners or mortgagees, whether or not elsewhere required for an amendment. Provided, however, no change pursuant to this paragraph shall alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, affected Unit owners and affected mortgagees in a manner elsewhere provided.
5. Construction of Units -- Variation and Adjustments. The Developer reserves the right to substitute for any of the materials, equipment and appliances, materials, equipment and appliances of equal or better quality in its sole discretion
6. Initial Working Capital Fund. If or when any first mortgage on a unit is to be insured by FHA or sold to FNMA, and only if required by FHA or FNMA, the Developer shall establish a working capital fund in an amount at least equal to two months of the estimated common charges for each Unit then existing or being constructed in the development of the condominium regime, to meet unforeseen expenditures or to purchase additional equipment or services. The share of each unit of the working capital fund shall be collected at the time of the sale of the unit or on the Control Transfer Date, whichever is earlier, or for units sold prior to the establishment of the fund, at the time of the closing of the first mortgage loan to be insured by FHA or sold to FNMA. As any additional units are completed, the Developer shall add to the fund the share for such Units at the time of

the sale of each Unit or on the Control Transfer Date, which ever is earlier. If any unit is completed after the Control Transfer Date, the Developer shall collect the share of the working capital fund for those units at the time the units or sold or completed, whichever is earlier. Amounts paid into this fund shall not be considered as advance payments of regular assessments. The working capital fund shall be transferred by the Developer to the Association for deposit to a segregated fund on the Control Transfer Date. The Developer may not use the working capital fund to defray any of its expenses, reserve contributions or to make up any budget deficits while it is in control of the Association. The Developer may, however, reimburse itself for funds paid to the Association for any unsold unit's share of the working capital fund from funds collected at closing when the Unit is sold. After control of the Association has effectively been transferred to the unit owners, the Association may determine how and when such fund shall be used for other purposes if not needed for the purposes for which it was established.

7. Construction of Buildings. Developer reserves the right to construct one building at a time in the condominium regime.
8. Assignment of Developer's Reserved Right. Developer shall have the right to assign all its reserved rights and obligations as Developer to any person, corporation or other entity. Upon such assignment of Developer's reserved rights, the initial Developer shall have no further obligation in connection with the condominium regime.
9. Right of Access. The Developer reserves an easement over the common elements of the condominium regime for the purpose of completing the improvements contemplated by this Declaration. Provided, however, the Developer shall restore any common element disturbed by Developer's use of such easement to the condition existing prior to the disturbance as soon as practically feasible after Developer's use of the easement rights granted herein are concluded. Also, the easement rights granted herein shall be exercised by the Developer only if and when the access required by Developer is not otherwise reasonably available other than over, across or through the common elements.

ARTICLE VI. MANAGEMENT OF THE REGIME

1. Association; Membership; Vote or Other Action of Owners. The business and affairs of the regime shall be governed and managed by the Association, a non-profit membership corporation organized and existing under Chapter 504A, Code of Iowa. Copies of its Articles of Incorporation and of its Bylaws are attached hereto as Exhibit "E" and Exhibit "F", respectively. Whenever a vote or other action of Unit owners as a group is required the mechanics of conducting such a vote or taking such action shall be under the control and supervision of the Association. The action of the Association shall constitute the action of the owners or of the Council of Co-Owners whenever such action is permitted or required herein by Chapter 499B of the Code of Iowa.

2. Agreements and Compliance. All owners, the Association, tenants, families, guests, and other persons using or occupying the regime shall be bound by and strictly comply with the provision of the Bylaws of the Association and applicable provisions of the other condominium documents, the Brighton Park Covenants and all agreements, regulations, and determinations lawfully made by the Association and its directors, officers or agents shall be binding on all such owners and other persons. A failure by any owner, the Association, tenant, family, guest, or other person occupying or managing the condominium regime to comply with the Bylaws or the provisions of the other condominium documents, the Brighton Park Covenants or any agreement or determination thus lawfully made shall be grounds for an action to recover sums due for damages on the part of the Association or any owner as applicable and for mandatory or other injunctive relief without waiving either remedy. The costs, including reasonable attorney's fees incurred by the Association to enforce same shall be a lien against the Unit whose owner failed to comply and this lien shall be subject to foreclosure by the Association.

3. Availability of Documents and Records. The Association shall make available to unit owners, lenders and the holders and insurers of the first mortgage on any unit current copies of this Declaration, the Bylaws of the Association and any rules or regulations passed by the Association governing the condominium regime and other books, records and financial statements of the Association. Such information shall also be made available by the Association to prospective purchasers of units, including the most recent audited financial statements of the Association, if such is prepared. "Available" shall mean available for inspection upon request during normal business hours or under other reasonable circumstances at a location selected by the Association. Also upon the written request of any agency or corporation which has an interest or prospective interest in the condominium regime, the Association shall be required to prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year. Costs of any copies, if furnished by the Association, shall be born by the person requesting such copies.

4. Included Powers; Foreclosure of Lien; Waiver of Partition. Each owner agrees that the Association has and shall exercise all powers, rights and authority granted unto it, the Council of Co-Owners and the owners as a group by Chapter 504A and 499B Code of Iowa, and such as are more particularly set forth in the condominium documents, including but not limited to the making of assessments chargeable to owners and the creation of a lien on units thereby, and the right, acting on behalf of the Unit owners, to foreclose the lien thereof and acquire a Unit at foreclosure sale and to hold, lease, mortgage or convey the same; all Unit owners shall be deemed to have waived all rights of partition, if any, in connection with such acquisition. Each owner hereby waives any right to delay or prevent such foreclosure by the Association which he may have by reason of a homestead exemption.

5. No Avoidance by Waiver of Use; Right of Entry. Each owner shall be liable for all assessments made by the Association against his Unit for common expenses and liabilities of the Association and the condominium property and regime. The liability of a Unit owner for all assessments made by the Association may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of a Unit for which an assessment is made. The Association shall have the right exercisable at reasonable times to enter a Unit as may be necessary to carry out its responsibilities.
6. Utilities. Each Unit owner shall pay all charges before they become delinquent for telephone, electricity, gas, cable television and any other service which is billed to the Unit owner. All other utility charges shall be paid by the Association and the costs of the same shall be a common expense to be assessed against each Unit owner as part of the regular assessment.
7. Management Contract. Pursuant to authority granted in its Bylaws, the Association has the right to enter into a contract with Developer or its assigns for professional management of its affairs for an initial term not to extend for more than three years from the date of the filing of this Declaration, and the management fee thereof shall be a common expense and such fee shall not increase by more than the yearly rate of increase in the Consumer Price Index U.S. City Average for Wage Earners and Clerical Workers (CPI-W) as published by the Department of Labor. Any such fee adjustment shall be no more often than once each year and the fee paid during the first year shall be the base year and the Index published for the first month on the initial term shall be the base index. Upon or after the Control Transfer Date, the Association or the Developer shall have the right to terminate such contract without penalty or cause upon 90 days written notice to the other party.
8. Discharge of Liability. The owner shall promptly discharge any lien which may hereafter be filed against his condominium Unit.
9. Negligence. A Unit owner shall be liable to the Association for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of his family, guests, employees, agents, or lessees, which liability shall include any increase in insurance rates resulting therefrom.
10. Limitation of Association's Liability. The Association shall not be liable for any failure of water or other service to be obtained and paid for by the Association hereunder, or for injury or damage to property caused by or on the common elements or by another owner or person in the project, or resulting from electricity, water, rain, air, dust, dirt or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances or equipment or from any other place unless caused by negligence of the Association. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the

making of repairs or improvements to the common area or from any action taken to comply with any law, ordinance or orders of a governmental authority.

11. Indemnification of Management Committee Members. Each member of the Association current and past Board of Directors shall be indemnified by the owners to the full extent provided by law as directors of a non profit corporation against all expenses and liabilities including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceedings to which he may be a party, or in which he may become involved, by reason of his being or having been an officer, or director of the Association or any settlement thereof, whether or not he is an officer or director at the time such expenses were incurred, except in such cases wherein such person is adjudged guilty of or liable for willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors of the Association approved such settlement and reimbursement as being for the best interest of the Association.

12. Association as Attorney-in-Fact for Owners. The Association is hereby irrevocably appointed attorney-in-fact for the owners of each and every condominium to manage, control and deal with the interest of such owners in the Common Areas so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its right hereinafter provided, to deal with Brighton Park upon its destruction or obsolescence as the case may be. The Association, or any Insurance Trustee (hereinafter defined) designated by the Association, is hereby irrevocably appointed attorney-in-fact for the owners of each and every condominium to purchase, maintain and handle insurance and insurance proceeds and condemnation awards as hereinafter provided, including, but not limited to, collection and appropriate distribution of the proceeds thereof, the negotiation of losses and execution of documents including releases of liability, the execution of documents, and the performance of all other acts necessary to accomplish such purpose. The acceptance by any person or entity of any interest in any condominium shall constitute an appointment of the Association as an attorney-in-fact as provided above.

13. Subordination of Assessment Liens. If any Unit subject to a lien created by any provision in this Declaration shall be subject to the lien of a first Mortgage of record; (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and (ii) the foreclosure of the lien of such Mortgage or the acceptance of a deed in lieu of the foreclosure by the Mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's

deed resulting from a decree of foreclosure or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the acceptance of a deed in lieu of foreclosure and have not been deemed to be an expense of the Association, but his shall not derogate the Association's right to collect said sums from the defaulting owner personally.

ARTICLE VII. FIRST LIEN HOLDERS RIGHTS

1. Notices of Action. A holder, insurer, or guarantor of a first mortgage, upon written request to the Association, (such request to state the name and address of such holder, insurer, or guarantor and the unit number), will be entitled to timely written notice of:

a. Any proposed amendment of the condominium instruments effecting a change in (i) the boundaries of any unit or the exclusive easement rights appertaining thereto, (ii) the interest in the general or limited common elements appertaining to any unit or the liability for common expenses appertaining thereto, (iii) the number of votes in the Association appertaining to any unit or (iv) the purposes to which any unit or the common elements a are restricted.

b. Any proposed termination of the condominium regime;

c. Any condemnation loss or any casualty loss which affects a material portion of the condominium regime or which affects any unit on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

d. Any delinquency in the payment of assessments or charges owed by an owner of a unit subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of 60 days;

e. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

2. Other Provisions for First Lien Holders. To the extent possible under applicable law, the following protections for the benefit of first mortgage holders shall exist:

a. Any restoration or repair of the condominium property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of the eligible

holders of first mortgages on units to which at least 67% of the votes of units subject to mortgages held by such eligible holders are allocated is obtained.

b. Any election to terminate the condominium regime after substantial destruction or a substantial taking in condemnation of the condominium property must require the approval of the eligible holders of first mortgages on units to which at least 67% of the votes of units subject to mortgages held by such eligible holders are allocated.

c. Unless the formula for reallocation of interests in the common elements after a partial condemnation or partial destruction of the condominium project is fixed in advance by this Declaration or by applicable law, no reallocation of interest in the common elements resulting from a partial condemnation or partial destruction on the condominium project may be effected without with approval of the eligible holders first mortgages on units to which at least 67% of the votes of units subject to mortgages held by such eligible holders are allocated.

3. NOTE: As used in this section, the term “eligible holder, insurer, or guarantor” shall mean a holder, insurer, or guarantor of a first mortgage on a unit which has requested notice in accordance with the provisions of Section VII(1) above. The rights set forth in this Article VII are in addition to and not in limitation of the other rights granted elsewhere in the Declaration to any eligible holder, insurer, or guarantor.

ARTICLE VIII. MAINTENANCE, ALTERATION AND IMPROVEMENT

1. Definitions. Certain terms used in this Article shall have a meaning as follows, provided any dispute over the characterization of work within one of the following meanings shall be conclusively decided by the Board of Directors of the Association.

a. “Maintenance” or “repair” shall mean the act of maintaining, restoration, renovation, reconstruction, replacement, rebuilding and similar work necessary to preserve a Unit, the building, the common elements, or the property in its condition as of the date of the completion of such improvements or restoration.

b. “Improvement” shall mean the addition of a new structure, element or facility, other than a structure, element or facility otherwise provided by this Declaration or any Supplemental Declaration.

2. Maintenance by Association.

a. The Association shall maintain all common elements, whether limited or general, and shall make assessments therefor as a common expense except where the cost of

maintenance has been specifically made the responsibility of each Unit in which case, each such Unit shall be assessed on an individual basis. Included in the foregoing shall be the Association's responsibility to maintain the landscaping and plantings (including sod) in accordance with the final site plan for the Land as approved by the City of Waukee, Iowa. Further, included in the foregoing shall be the Association's responsibility to maintain all sanitary sewer lines (including manholes) within the Land.

b. The Association shall repair incidental damage caused to a Unit through maintenance by the Association and shall assess the cost thereof as a common expense.

c. If a Unit owner defaults on his responsibilities of maintenance, the Association shall assume such responsibilities and shall assess the cost thereof against the owner of such Unit and such assessment shall be collectible from the Unit owners as if it were an assessment for common expenses without waiving any rights to collect the costs thereof against said unit or owner as provided in this Declaration.

d. The Association may, in its discretion, assume responsibility for any maintenance project which requires reconstruction, repair, rebuilding, renovation, restoration or similar work to one or more units and the cost thereof may in the discretion of the Association, either be assessed against each Unit on which such costs were incurred or be assessed against all units as a common expense according to the circumstances.

e. The Association shall maintain and repair the trash Garage Units and shall be responsible for snow removal from all streets and sidewalks within the Land.

3. Maintenance by Owner.

a. Each Unit owner at his own expense shall maintain the interior, including the boundary surfaces, of such Unit and its equipment, shall keep such interior in a clean and sanitary condition, shall do all redecorating, painting and other finishing which may at any time be necessary to maintain his Unit in reasonable repair, and shall be responsible for the maintenance of all personal property including carpets, furnishings, and appliances within such Unit.

b. The Owner of each Unit shall be responsible for maintenance of any plumbing fixtures, lighting fixtures, refrigerators, dishwashers, disposals, ranges, heating, ventilation, air-conditioning equipment, and hot water heater located in or connected with such Unit and for its exclusive use. The owner shall also, at his own expense, keep in an clean condition any limited common area which is for the exclusive use of his Unit; and neither the Association nor the regime shall be liable or responsible for any loss or damage caused by theft or otherwise of articles which may be stored by the owner in a limited common area or in a Unit except for the repair specifically made the responsibility of the Association for damage caused to a Unit through its maintenance as provided in Section 2(b) of this

Article.

c. The Unit owner shall maintain, at his expense, any improvement or other alteration made by him and keep such improvement or alteration in reasonable repair.

d. The Owner of each unit shall promptly report to the Association any defects or other maintenance needs which are the responsibility of the Association.

4. Alteration or Improvement by Owner. No unit owner shall make or permit to be made any structural alteration to a unit or to the building or any of the common elements, limited or general, without first obtaining written consent of the Board of Directors of the Association which shall determine the proper insurance of such improvements or other alteration, and the effect of such improvement or alteration on insurance of other property of the regime, and which shall arrange with such unit owner for the payment of the cost of any additional insurance thereby required. In the case of alterations within a unit, the consent required by the preceding sentence shall be immediately granted upon agreement of the unit owner to pay the cost of such additional insurance, and a determination that such alteration will not impair the structural soundness of the building or safety of the property. Such owner shall do no act or work which will impair the structural soundness or integrity of the building or safety of the property or impair any easement. The improvement or alteration of a Unit shall cause no increase or decrease in the number of ownership units appurtenant to such Unit. Alterations to the exterior of the building or any common element shall not be made, if, in the opinion of the Board of Directors of the Association, such alteration would not enhance the integrity and appearance of the regime as a whole.

5. Alterations or Improvements by the Association. Whenever in the judgment of the Board of Directors the common elements shall require addition, alterations or improvements during the fiscal year costing in the aggregate in excess of \$5,000.00, and the making of such additions, alterations or improvements shall have been approved by a majority of the ownership units, the Board of Directors shall proceed with such additions, alterations, or improvements and shall assess all unit owners for the cost thereof as a common charge. Any additions, alterations or improvements during the fiscal year costing in the aggregate \$5,000.00 or less may be made by the Board of Directors without approval of Unit owners, and the cost thereof shall constitute part of the common expenses.

ARTICLE IX
CONDITIONS OF RESTRICTIONS ON OWNERSHIP USE,
AND THE OWNERSHIP, USE, OCCUPATION, AND ENJOYMENT

1. Subjection of the Property to Certain Provisions. The ownership, use, occupation, and enjoyment of each unit and of the common elements of the regime shall be subject to the provisions of the Brighton Park Covenants, Bylaws and Articles of Incorporation of the Association, and this Declaration, all of which provisions irrespective of where set forth or

classified shall have equal status and shall be enforceable and binding as a covenant, condition, restriction, or requirement running with the land and shall be binding on and enforceable against each and all units and the owners thereof and their respective heirs, assigns, lessees, tenants, occupants, and successors in interest.

2. Use of Property. The use of the property shall be in accordance with and subject to the following provisions:

- a. A unit shall be used or occupied for single family dwelling purposes only.
- b. An owner has the right to decorate windows bounding his unit, however, this right is limited to the extent that only drapes, curtains, sheers and shutters may be used which must be lined so that they appear white from the outside of the building. Nothing shall be hung between the interior surface of the windows and the drapes, curtains, sheers or shutters used.
- c. Dogs, cats and other pet animals and birds, or livestock, farm animals or poultry of any kind including any mammal, rodent, or snake, are prohibited, provided however, any person purchasing a Unit from the Developer in Brighton Park may bring one pet dog, cat or bird with them if such pet weighs less than 25 pounds at full growth. When a pet, which is brought onto the premises as provided above, dies it shall not be replaced. The handling and conduct of the temporarily permitted pets shall be subject to any rules and regulations adopted by the Association. All pets outside of a Unit must be on a leash and accompanied, at all times, by an adult. No such pet may be bred or maintained for any commercial purpose
- d. The Association may adopt rules and regulations for the reservation and use of the recreational facilities.
- e. The right to sell, transfer or convey any condominium unit may be subject to such reasonable and uniform objective standards relating to financial responsibility and/or character as may now and hereafter be adopted by the Association in the form of rules and regulations. No restriction shall include a right of first refusal or similar right to the Association. No such restriction shall be based upon race, religion, age, sex or place of national origin.
- f. No noxious, illegal or offensive activity shall be carried on in any condominium Unit, nor shall any thing be done or permitted to remain in any condominium Unit which may be or become a nuisance or annoyance to owner or tenants. Owners and/or other tenants, shall exercise extreme care not to disturb other owners or tenants with excessive noise.
- g. There shall be no obstruction of any common elements. Nothing shall be stored on any common elements (except those areas designated for storage of personal property by the

owners of the condominium units) without the approval of the Association. Vehicular parking upon general common elements may be regulated or assigned by the Association. Repair or maintenance of automobiles in the garage or other general common element is strictly prohibited.

- h. Except for such signs as may be posted by the Developer for promotional or marketing purposes, no signs of any character which are visible from the outside of a condominium Unit shall be erected, posted or displayed upon, from or about any condominium Unit, unless first reviewed and approved by the Association provided, however, any holder of a first mortgage which acquires possession of a Unit by foreclosure or by deed in lieu of foreclosure and any unit owners seeking to selling his unit shall have the right to post a sign for the sale or rental of such Unit until such Unit is sold or a rental is entered into.
- i. The halls and passageways of all buildings shall be used only for ingress or egress.
- j. No burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used materials, or trash or any other kind shall be permitted within any condominium unit or permitted to remain in public view, but shall be deposited in the receptacles provided for that purpose.
- k. No structure of a temporary character, trailer, tent, shack, boat or other recreational vehicle of any kind shall be maintained upon any common elements at any time.
- l. No owner or other person shall install any electrical or telephone wire, television antenna or other antenna, air-conditioning unit or other machine or device on the exterior of the building.
- m. Nothing shall be altered in, constructed in, or removed from the common elements, except upon written consent of the Board of Directors of the Association.
- n. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Unit owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.
- o. Nothing shall be done or kept in any Unit or in the common area which will increase the rate of insurance on the common area, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his unit or in the common area which will result in the cancellation of insurance on any unit or any part of the common area, or which would be in violation of any law.
- p. Agents of or contractors hired by the Association may enter any unit when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience

to the owners as practicable.

q. A unit owners shall give notice to the Association of every lien against his unit other than permitted mortgages, taxes, and Association assessments, and of any lawsuit or other proceeding which may affect the title to his unit, within 10 days after the lien attaches or the owner receives notice of such lien or lawsuit or proceeding. A unit owner shall be governed by the provision of Iowa Code Section 499B.12 with respect to any such liens.

r. Unit owners are reminded that alteration and repair of the building is the responsibility of the Association, except for the interior of the units. No work of any kind is to be done upon the exterior of the building walls or upon interior boundary walls or doors without first obtaining the approval of the Association. Work inside a unit must be coordinated with the Association before proceeding.

s. Each unit occupant shall keep his unit and balcony or patios to which he has sole access in a good state of presentation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors, windows, balcony, or patio thereof, any dirt or other substance.

t. No vehicle belonging to a unit occupant or to a member of his family, or guest, tenant or employee of it Unit occupant shall be parked in such a manner as to impede or prevent ready access to any entrance to or exit from the building by another vehicle. Further, bicycles and moped not stored in a garage which is part of a unit shall not be stored in common elements except in the parking areas designed by the Association.

u. Complaints regarding the services of the building shall be made in writing to the Board of Directors or to the managing agent or to the manager.

3. The Association shall have the authority to amend and adopt reasonable rules and regulations governing the use of the condominium property and such rules shall be observed and obeyed by the owners, their guests, and licensees. Such rules after being properly adopted shall have the same force and effect as if contained in this Declaration.

ARTICLE X CONDEMNATION

1. Taking by Eminent Domain. Payment for the taking of a portion of a Unit or of the common elements by eminent domain or the conveyance under threat shall be deemed to be proceeds from insurance on account of casualty and shall be deposited with the Insurance Trustee to be held in trust for the unit owners and their first mortgage holders, as their interests may appear. Even though the awards may be payable to individual owners, each individual unit owner shall deposit his award(s) with the Insurance Trustee. In the event of failure to do so, in the discretion of the Association, a special assessment shall be made against a defaulting owner in the

amount of his award, and the amount of such award shall be set off against the sums hereinafter made payable to such owner. The proceeds of the award shall be distributed or used in a manner heretofore provided for insurance proceeds except that when the condominium regime is not to be terminated, and one or more units are taken in part, the taking shall have the following effects:

a. If the Unit is Reduced But Tenantable. If the unit taking reduces the size of the unit, and the remaining portion of the unit can be made tenantable, the award for the taking of a portion of the unit shall be used for the following purposes in order stated, and the following changes shall be effected in the condominium regime:

(i) The unit shall be made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the owners of the condominium unit.

(ii) The balance of the award, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit of record, the remittance being payable jointly to the owner and the mortgagees.

b. Unit Made Untenantable. If the taking destroys or so reduces the size of the unit that it cannot be made tenantable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the condominium regime:

(i) The market value of such unit immediately prior to the taking shall be paid to the owner of the unit and to each mortgagee of the unit of record, the remittance being payable jointly to the owner and the mortgagees.

(ii) The remaining portion of such Unit, if any, shall become a part of the common elements and shall be placed in condition for use by all of the Unit owners in a manner approved by the Association; provided, if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be paid for by assessment as a common expense among all remaining units.

(iii) If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the owner, and to condition the remaining portion of the Unit for use as part of the common elements, the additional funds required for such purposes shall be raised by assessments against all of the unit owners who will continue as co-owners of condominium units after the changes in the condominium regime affected by the taking. In the event that the market price cannot be determined by negotiations, it shall be determined by binding arbitration in accordance with Chapter 679A of the Code of Iowa.

(iv) If the amount of the award for the taking exceeds the amounts necessary to pay

the market value of the condemned unit to the owners as provided in sub-paragraph (i) above and to condition the remaining portion of the unit for use as part of the common elements as provided in sub-paragraph (ii) above, the excess funds shall be payable to the owner of the condemned unit.

c. The Association shall thereafter have the right to file among the land records an amendment to this Declaration to incorporate all necessary changes.

ARTICLE XI DESTRUCTION; CASUALTY AND REPAIRS

1. In the event less than one-half of the entire condominium project is damaged or destroyed by fire or peril, it shall be deemed that the Association shall have immediately vote unanimously to repair, reconstruct or rebuild and the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specifications using the proceeds of insurance available for that purpose, if any. Provided, however, if 75% or more of the ownership units within 20 days from such damage and destruction notify the Board of Directors in writing, requesting a vote of the Association members concerning the question of rebuilding, repairing or reconstructing the damage or destruction, the Association shall hold such meeting and shall commence such rebuilding, repairs or reconstruction unless unit owners (other than the Developer) to which at least 67% of the votes in the Association are allocated and the eligible holders of first mortgages on units to which at least 67% of the vote on units subject to mortgages appertain approve in writing the termination of the condominium regime.

2. In the event the proceeds of insurance are not sufficient to repair damage or if destruction is caused by any peril not herein required to be insured against, then the repair or reconstruction of the damaged common elements shall be accomplished promptly by the Association at its common expense and the repair or reconstruction of any condominium unit shall be accomplished promptly by the Association at the expense of the owner of the affected condominium Unit. The ratable share of the expense of such repairs or reconstruction may be assessed and the lien for the same shall have all the priorities heretofore provided for in this Declaration and by the Bylaws of the Association.

3. In the event that one-half (½) or more of the entire project is substantially damaged or destroyed by fire or other casualty, it shall be deemed that the Association shall have immediately voted unanimously to repair, reconstruct, rebuild and the same shall be promptly repaired or reconstructed in substantial conformity with the original plans and specification using the proceeds of insurance available for that purpose, unless unit owners (other than the Developer) to which at least 67% of the votes in the Association are allocated and the eligible holders of first mortgages on units to which at least 67% of the votes on units subject to mortgages appertain, approve in writing not to proceed with repair and reconstruction. In that event the project shall be deemed to be owned in common by the owners of all of the units in the same proportions as

that previously established for ownership of appurtenant undivided interests in the common elements, and the project shall be subject to an action for partition at the suit of the owner of any unit or the holder of any lien thereon, in which event the net proceeds of sale, together with the net proceeds of any insurance paid to the Association or its members in common, shall be considered as one fund and shall be divided among the owners of all units as herein provided, after first paying out of the share of the owner of any unit, to the extent such share is sufficient for the purpose, all liens upon such unit.

4. In addition to the limitation on termination of the condominium regime set forth above in the event of substantial loss to the units and/or common elements of the condominium property, unless the unit owners (other than the Developer) to which at least 67% of the votes in the Association are allocated and the eligible holders of first mortgages on units to which at least 67% of the votes on units subject to mortgages appertain, have given their prior written approval, the Association may not:

- a. Change the prorata interest or obligations of any unit in order to:
 - i) levy assessments or charges;
 - ii) allocate distribution of hazard insurance proceeds or condemnation awards;
 - iii) determine the prorata share of ownership of each unit the common elements; or
- b) Partition or subordinate any unit; or
- c) Seek to abandon, partition, subdivide, encumber, sell or transfer the common elements by act or omission (the granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the condominium project not being a transfer within the meaning of this clause); or
- d) Use hazard insurance proceeds for losses to any condominium property (whether units or common elements) for other than repair, replacement, or reconstruction of the condominium property.

ARTICLE XII INSURANCE AND FIDELITY BONDS

1. The Association shall obtain and maintain at all times, to the extent available, at least, the following insurance (hereinafter referred to as "Condominium Property Insurance"):

- a) Insurance on the condominium property in an amount equal to full replacement value of the condominium property (as determined annually by the Association) and with a

replacement cost endorsement which provides for payment of all losses without deduction or allowance for depreciation. "Condominium property" for the purpose of this Article XII shall include all property, real, personal, or mixed submitted to the regime other than personal property of any owner and includes specifically, without limitation, the general and limited common elements (except land, foundation, excavation, and other items normally excluded from coverage), building service equipment and supplies, and other common personal property belonging to the Association. In addition, any fixtures, equipment or other personal property within the unit which are to be financed by a mortgage to be purchased by FNMA or FHLMC (whether or not such property is a part of the common elements) shall be covered by such insurance. Such coverage shall afford protection against, at least, the following:

i) loss or damage by fire or other hazards covered by the standard extended coverage endorsement and additional extended coverage endorsement;

ii) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, and as is commonly required by prudent institutional mortgage investors in the area, including, but not limited to, as applicable and available, vandalism, malicious mischief, agreed amount demolition cost, increased cost of construction, boiler and machinery explosion or damage, and any other perils normally covered by the standard "all risk" endorsement when available and such other insurance as the Association may from time to time determine; and

b. Comprehensive general liability insurance coverage covering all of the common elements, commercial space owned and leased by the Association, and public ways of the condominium project. Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use. However, such coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be canceled or substantially modified, by any party, without at least ten days' prior written notice to the Association and to each holder of a first mortgage on any unit in the condominium regime which is listed as a scheduled holder of a first mortgage in the insurance policy and must conform to the then applicable requirements of FHA, FNMA and FHLMC, as the case may be, in the event any of these entities is a mortgage holder. FNMA and FHLMC may also require such coverage to include protection against such other risks as are customarily covered with respect to condominiums similar in construction, location, and use, including, but not limited to, host liquor liability, workers' compensation, and employer's liability insurance, contractual and all-written contract insurance, bailee's liability, elevator collision, garage keepers liability, and comprehensive automobile liability insurance. FHLMC may require that a certificate of the liability policy be provided to the seller/servicer of the mortgage owned by FHLMC

with the seller/servicer to be named as the certificate holder, and showing the information required under Section 6410 on the FHLMC Seller/Servicer Guide; and

c) Workmen's compensation insurance to the extent necessary to comply with any applicable law; and

d) Non-conforming structure endorsement to the extent necessary; and

e) Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as are or shall hereafter be considered reasonably necessary by the Association.

2. The premiums for the insurance coverage shall be a common expense to be paid by monthly assessments levied by the Association against owners of each of the units. The premiums attributable to coverage on the units and the common elements shall be apportioned among the units. Deductibles may not exceed the lower of \$10,000.00 or 1% of the applicable amount of coverage. Funds for such deductibles must be included in the Association's reserves and be so designated. The insurer's minimum liability per accident under boiler and machinery coverage must equal the insurable value of the building housing such boiler or machinery or \$2,000,000.00, whichever is less.

3. The Association, or its designee, shall have the exclusive authority to adjust losses under the insurance policies.

4. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by owners of units or their mortgages.

5. Each unit owner may obtain additional insurance at his own expense upon his unit provided that no owner shall maintain insurance coverage which will tend to decrease the amount which the Association may realize under any insurance policy which it may have in force.

6. All policies provide that such policies may not be canceled or substantially modified without at least 10 prior written notice to any and all insured named thereon, including the Association and any and all mortgagees of the units.

7. The Association shall from time to time designate an Insurance Trustee. The Association shall be responsible for fees and expenses of the Insurance Trustee which shall constitute a common expense of the Association.

8. Except as hereinafter provided, the Insurance Trustee named in the condominium property endorsement shall receive and hold the amount payable under the condominium project insurance apply the same to the cost of reconstruction or repair of a damaged or destroyed unit. The work of repairing or reconstruction of the damaged or destroyed unit shall be commenced within 30

days from the date of the damage or destruction. The work shall be accomplished in accordance with the same plans and specifications by which the units were originally constructed, subject, however, to the prior written approval of the Association. The Insurance Trustee shall make available and pay to the owner the amount of insurance proceeds received by the Insurance Trustee for the reconstruction and repair of the unit. The payment of the proceeds of insurance shall be made as the work progresses at such time and upon compliance by the owner with such conditions as the Insurance Trustee shall impose, in order to assure full restoration or repair of the damaged portions of the unit in a workmanlike manner, free and clear of any mechanic's and material men's liens and any encumbrances, liens, claims or charges other than a first mortgage lien. If the cost of the reconstruction or repair exceeds the amount paid to the Insurance Trustee, the excess shall be paid by the owner; provided, however, that in the event a decision not to reconstruct is made according to the terms of Article XI hereof, Brighton Park shall be considered terminated. In the event of such termination, the Board of Directors of the Association shall have the responsibility of closing out the affairs of the condominium project in an orderly manner. All damaged or destroyed units must be repaired or restored unless a determination not to do so is made by the unit owners and eligible holders of first mortgages as provided in Article XI above.

9. Any insurance obtained pursuant to the requirements of this Article, except under subsection (h) below, shall be subject to the following provisions:

a) All policies shall name as insured the Brighton Park Owners Association for the use and benefit of the individual unit owners, and may also be issued in the name of an authorized representative of the Association including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement. Such policies shall be written with a company or companies licensed to do business in the State of Iowa and holding A rating of "A-XI" or better, by Best's Insurance Reports and a policyholder's rating of "A" or better, and in any event meeting the qualification requirements set forth in the FNMA Correctional Home Mortgage Selling Contract Supplement and the FHLMC Sellers Guide.

b) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors of the Association or its authorized representative, including any Insurance Trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall herein elsewhere be referred to as the "Insurance Trustee", and all proceeds covering any loss shall be payable to the Insurance Trustee, or to his successor Trustee. All proceeds from an insured loss under such policy shall be held in trust for the use and benefit of the Association and the owners of all units and their respective first mortgagees as their respective interests may appear. Each unit owner and each unit owner's first mortgagee, if any, shall be beneficiaries of such policies according to the respective unit's undivided ownership interest in the common elements. Such insurance proceeds shall be applied and distributed in accordance with the articles relating to insurance in the Declaration and Bylaws.

c) In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance issued in the name of any individual unit owner purchased as herein permitted by such owner of a unit or their mortgagee. Any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration.

d) All policies shall provide that such policies may not be canceled or substantially modified without at least 10 days prior written notice to any and all insureds named thereon, including the Association any and all mortgagees of the units. Policies are unacceptable where:

i) under the terms of the insurance carrier's charter, by-laws, or policy, contributions or assessments may be made against borrowers, FNMA, FHLMC, or the designee of FNMA or FHLMC, or if made against any other party, could become a lien on the mortgaged property superior to the outstanding liens, or

ii) by the terms of the carrier's charter, by-laws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members, or

iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC or the borrowers from collecting insurance proceeds.

e) All fire and other hazard insurance policies shall provide that, notwithstanding any provisions thereof which give the carrier the right to erect or restore damage in lieu of making a cash settlement, such option shall not be exercisable when in conflict with the provisions of the Declaration and Bylaws.

f) All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, its Board of Directors, their agents and employees, the respective unit owners, their residence employees and agents. Independent contractors shall not be considered agents, employees or servants of the Association or of the respective unit owners within the meaning of said waiver.

g) The insurance policy shall contain a provision that the insurance shall not be prejudiced:

i) By any act or neglect of any occupants or owners of the building when such act or neglect is not within the control of the unit owners collectively; or

ii) By failure of the unit owners collectively, to comply with any warranty or condition with regard to any portion of the premises over which the unit owners collectively have no control.

h) The owner of any unit (including the holder of any mortgage thereon) may obtain additional insurance (including a "condominium unit-owner's endorsement" for improvements and betterments to the unit made or acquired at the expense of the owner) at his own expenses. Such insurance shall be written either by the same carrier as that purchased by the Association pursuant to this Article, or if written by another carrier, shall provide that it shall be without contribution as against the same. Such insurance shall contain the same waiver of subrogation provisions as set forth in Section 9(f) of this Article. The Developer recommends that each owner of a unit obtain, in addition to the insurance hereinabove required to be obtained by the Association, a "Tenant's Policy", or equivalent, to insure against loss or damage to personal property, including but not limited to decorated surfaces of walls, floor coverings, plumbing and electrical fixtures, non-load bearing walls and appliances used or incidental to the occupancy of the unit, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "condominium unit owner's endorsement" covering losses to improvements and betterments to the unit made or acquired at the expense of the owner.

i) Certificate of insurance shall be issued to each unit owner and mortgagee upon request, in a form acceptable to the mortgagee. Specimen policies shall be provided to any mortgagee upon request.

j) Casualty policies shall contain the standard mortgagee clause (without contribution) as is commonly accepted by private institutional mortgage lenders in the area and which appropriately names FNMA and FHLMC, as the case may be, if such corporations are holders of first mortgages on units within the condominium regime. If FHLMC owns the first mortgage on a unit, the seller/servicer of the mortgage and its successors and assigns shall also be named as the mortgagee on the mortgagee clause.

k) Casualty policies shall also include an "Agreed Amount Endorsement," and if available, an "Inflation Guard Endorsement."

10. Blanket fidelity bonds shall be required to be maintained by the Association for all officers, directors and employees of the Association and all other persons handling, or responsible for, fund of or administered by the Association. Where the management agent has the responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond and shall conform to the requirements of FNMA or FHLMC should these entities be mortgage holders of any unit in the condominium project. The Federal National

Mortgage Association also requires, as a condition to approval of condominium projects, that such bonds provide that the FNMA Servicers, on behalf of the FNMA, also receive notice of

cancellation or modification. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months' aggregate assessments on all units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the management agent, shall be paid by the Association as a common expense. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association or Insurance Trustee.

ARTICLE XIII AMENDMENTS

1. Procedure. Except as otherwise provided in Article XI hereof pertaining to amendment to this Declaration or termination of the condominium regime as a result of destruction, damage or condemnation, this Declaration may be amended and such amendment shall be made in the following manner:
 - a. The consent in writing of owners of units to which at least 67 percent of the votes in the Association are allocated and the approval of the eligible holders of first mortgages on units to which at least 67 percent of the votes of units subject to mortgages appertain shall be required to terminate the condominium regime.
 - b. In the case of an amendment to this Declaration by reason of an amendment to the Bylaws of the Association, in the manner specified in such Bylaws, such amendment shall be effective upon its execution and recordation by the president or other officer of the Association, authorized therefor by resolution, in the records of the Recorder of Dallas County, Iowa.
 - c. In the case of all other amendments to this Declaration, by written agreement of the unit owners to which at least 67 percent of the votes in the Association are allocated, provided eligible holders of a first mortgage of records to which at least 67 percent of the votes of units subject to a mortgage appertain so approve in writing and recordation by the president or other officer of the Association, authorized therefor by resolution, in the records of the Recorder of Dallas County, Iowa.
 - d. Developer may, until all phases of the condominium regime contemplated herein have been completed, make minor amendments to this Declaration without the approval of the unit owners. Such amendment shall be for the purpose of clarification or correction of errors in the Declaration and shall not affect the substantive rights of a unit owner.
2. Effectiveness. Upon recordation at the Office of the Dallas County Recorder by the president or other officer appointed for that purpose, an amendment adopted in the manner

specified in Paragraph 1 of this Article, or as otherwise provided in other Articles herein, shall be effective against any persons having an interest in a unit or the regime regardless of whether said person had such interest at the time said amendment was adopted in accordance with Paragraph 1 of this Article.

3. Ownership Units. No amendment shall change the number of ownership units appurtenant to a unit, nor the share of the common elements appurtenant to it, nor increase the owner's share of the common expense, unless the record owner of the unit concerned and all record owners of mortgages thereon shall affirmatively join in the adoption of such amendment. No amendment shall change or affect the provisions of this paragraph 3 of this Article.

ARTICLE XIV EXPANSION OF CONDOMINIUM REGIME

1. The right to enlarge the condominium regime from time to time, is reserved exclusively to Developer and shall be exercised by Developer, if at all, not later than the date five years after the date of recording this Declaration. Developer shall and exercise the right to enlarge the condominiums regime not only in its individual capacity but also as agent for the owners of all units in the condominium regime as now constituted or hereafter enlarged and such unit owners do hereby irrevocable appoint Developer as their agent for the purpose of so enlarging the condominium regime.
2. The right to enlarge the condominium regime by adding thereto additional land, upon which additional buildings, units, and other improvements exist or are to be constructed, shall be exercised by Developer, if at all, by executing and acknowledging a supplemental declaration(s) to such effect made pursuant to the Horizontal Property Act. Such supplemental declaration(s) shall constitute an amendment of and, by appropriate reference thereto, shall be incorporated into this Declaration of Condominium by which the condominium regime is originally established. Such supplemental declaration(s) shall be effective when recorded in the office of the Recorder of Dallas County, Iowa.
3. If HUD, the VA or FNMA or any other Federal housing authority holds, insures or guarantees any mortgage on existing units at the time the Developer wants to proceed with any expansion of the condominium regime as provided in this Article, each such agency or entity must give its written consent to the particular phase of the expansion. Provided, however, such consent shall not be withheld if the proposed expansion substantially conforms to the plan of expansion set forth in this Article XIV and in the Recitals of the Declaration.
4. The buildings to be included in any additional enlargement and appurtenant improvements of the condominium project must be substantially completed before the same can be added to the condominium regime by the filing of a supplemental declaration. All taxes and other assessments relating to the property in any addition covering any period prior to the

addition must be paid or otherwise satisfactorily provided for by the Developer prior to filing the supplemental declaration for that addition. If FNMA holds any mortgage on an existing unit at the time any additional land is added to the condominium regime, FNMA must be furnished with title evidence in a form satisfactory to it, which discloses any lien, easement or other encumbrance affecting additional land to be added which will affect the existing condominium regime after such addition. All of the original cost of any land, or the buildings, apartments, and other improvements existing or to be constructed thereon, which are added to the condominium by a supplemental declaration, shall be paid for by Developer and no part thereof shall ever be assessed against any units as a common expense.

5. The fractional interest in the common elements appurtenant to each unit in the condominium regime as now constituted or hereafter enlarged shall be a fraction having as its numerator one and having as its denominator the total of all units in the condominium regime.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 7th of October, 2002

JERRY'S HOMES, INC.

By: *Ronald G. Crabb*
Its: *RGC*

STATE OF IOWA)
)ss
COUNTY OF POLK)

On this 7th day of October, 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Ronald Crabb, to me personally known, who being by me duly sworn, did say that he is the President of the corporation executing the within and foregoing instrument; that no seal has been procured by the corporation; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that Ronald Crabb as such officer acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation; by it and by him voluntarily executed.

Susan N. Lykken
Notary Public in and for the State of Iowa

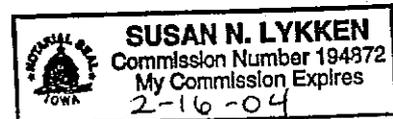


EXHIBIT B
BRIGHTON PARK
UNDIVIDED OWNERSHIP INTEREST AND VOTES

<u>Local Address</u>	<u>Unit Number</u>	<u>Ownership Interest</u>	<u># of Votes</u>
370 Booth Ave.	1	1/22nd	1
350 Booth Ave.	2	1/22nd	1
340 Booth Ave.	3	1/22nd	1
330 Booth Ave.	4	1/22nd	1
320 Booth Ave.	5	1/22nd	1
1400 L.A. Grant Pkwy	6	1/22nd	1
1406 L.A. Grant Pkwy	7	1/22nd	1
1410 L.A. Grant Pkwy	8	1/22nd	1
1416 L.A. Grant Pkwy	9	1/22nd	1
1420 L.A. Grant Pkwy	10	1/22nd	1
1426 L.A. Grant Pkwy	11	1/22nd	1
1430 L.A. Grant Pkwy	12	1/22nd	1
1440 L.A. Grant Pkwy	13	1/22nd	1
1446 L.A. Grant Pkwy	14	1/22nd	1
1450 L.A. Grant Pkwy	15	1/22nd	1
1456 L.A. Grant Pkwy	16	1/22nd	1

<u>Local Address</u>	<u>Unit Number</u>	<u>Ownership Interest</u>	<u># of Votes</u>
325 Rosenkranz Dr.	17	1/22nd	1
335 Rosenkranz Dr.	18	1/22nd	1
345 Rosenkranz Dr.	19	1/22nd	1
355 Rosenkranz Dr.	20	1/22nd	1
375 Rosenkranz Dr.	21	1/22nd	1
385 Rosenkranz Dr.	22	1/22nd	1